

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," and Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The proposed amendments modify the rules for provision of case management services in screening centers, maternal health centers, local education agencies, and infant and toddler (Early ACCESS) programs to comply with federal regulations on targeted case management published at 74 Fed. Reg. 68077-01. All state Medicaid programs are required to be in compliance.

The federal regulations standardize the definition of case management, require a comprehensive assessment and plan of care, limit Medicaid coverage of case management services to one case manager per member, and establish standards for freedom of choice of providers, monitoring, and service documentation.

These amendments remove the care coordination components from the service descriptions for the Early and Periodic Screening, Diagnosis, and Treatment Program (Care for Kids) as provided by physicians, screening centers, rural health clinics, maternal health centers, and federally qualified health centers. An interagency agreement will be implemented between the Iowa Departments of Public Health and Human Services to replace these services. There will be increased costs for the administration by the Department of Public Health, but significantly less cost than if the additional case management activities required by federal regulation were provided by local maternal and child health centers funded under Title V of the Social Security Act.

The service description for infant and toddler programs, which serve infants and toddlers with disabilities from birth to 36 months of age, is modified to meet the federal requirements for targeted case management services. Services that are educational in nature and that are an integral part or an extension of direct services are excluded. Service requirements include assessment of the child's needs, development of a plan of care, contact with the child and family, referral, monitoring, and record keeping.

Because, under the federal regulations, Medicaid will cover only one case manager, a family whose child is also eligible for case management for people with mental retardation, chronic mental illness, or developmental disabilities under 441—Chapter 90 must choose which case management provider the family will use. If the family chooses case management under Chapter 90, the Infant and Toddler Program cannot be paid for providing case management services. Similarly, a child living in a medical institution cannot receive any other case management services, since the institution is responsible for case management.

Changes are also proposed to clarify the policies on prenatal risk assessments and administration of vaccines. A second risk assessment is not required if the first assessment indicated a high-risk pregnancy. Medicaid will not reimburse a provider for the cost of a vaccine that is available under the federal Vaccines for Children administered by the Department of Public Health, but administration of vaccines is a covered service.

These amendments also make numerous technical changes to the rules affected by the federal regulations as well as other related rules to update terminology and meet formatting standards.

These amendments do not provide for waivers in specified situations because the federal regulations make no provision for waivers.

Any interested person may make written comments on the proposed amendments on or before October 15, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **77.9(1)**, “Assets,” as follows:

“Assets” includes any listing that identifies Medicaid ~~recipients~~ members to whom home health services were furnished by a participating or formerly participating home health agency.

ITEM 2. Amend rule 441—77.43(249A), as follows:

441—77.43(249A) Infant and toddler program providers. ~~A public An agency provider in good standing under the infants and toddlers with disabilities program administered by the department of education, the department of public health, the department of human services, and the Iowa Child Health Specialty Clinics pursuant to the interagency agreement between these agencies under Subchapter III of the federal Individuals with Disabilities Education Act (IDEA) is eligible to participate in the medical assistance program as a provider of infant and toddler program services under rule 441—78.49(249A) if the following additional requirements are met:~~ agency:

1. Is in good standing under the infants and toddlers with disabilities program administered by the department of education, the department of public health, the department of human services, and the Iowa Child Health Specialty Clinics pursuant to the interagency agreement between these agencies under Subchapter III of the federal Individuals with Disabilities Education Act (IDEA); and

2. Meets the following additional requirements.

ITEM 3. Amend subrule 78.1(22) as follows:

78.1(22) Risk ~~assessments~~ assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid member’s pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. Enhanced services include ~~care coordination~~, health education, social services, nutrition education, and a postpartum home visit. Additional reimbursement shall be provided for obstetrical services related to a high-risk pregnancy. (See description of enhanced services at subrule 78.25(3).)

ITEM 4. Rescind and reserve subrule **78.1(23)**.

ITEM 5. Amend subrule 78.16(1) as follows:

78.16(1) Payment to a community mental health center will be approved for reasonable and necessary services provided to ~~medical assistance recipients~~ members by a psychiatrist, psychologist, social worker or psychiatric nurse on the staff of the center under the following conditions:

a. Services must be rendered under the supervision of a board-eligible or board-certified psychiatrist. All services must be performed under the supervision of a board-eligible or board-certified psychiatrist subject to the conditions set forth in 78.16(1) “b” with the following exceptions:

(1) and (2) No change.

(3) Services provided by a staff member, listed in this subrule, performing the preliminary diagnostic evaluation of ~~medical assistance recipients~~ a member for voluntary admission to one of the state mental health institutes.

b. No change.

ITEM 6. Amend rule 441—78.18(249A), as follows:

441—78.18(249A) Screening centers. Payment will be approved for health screening as defined in 441—subrule 84.1(1) for individuals Medicaid members under 21 years of age ~~who are eligible for medical assistance.~~

ITEM 7. Amend subrule 78.18(1) as follows:

78.18(1) Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as screening center services. Screening centers ~~which that~~ wish to administer ~~those vaccines which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Screening centers shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

ITEM 8. Rescind and reserve subrule **78.18(6)**.

ITEM 9. Rescind subrule **78.21(3)**.

ITEM 10. Amend subrules 78.21(1) and 78.21(2) as follows:

78.21(1) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient member~~ lock-in program.

78.21(2) Risk ~~assessments~~ assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.21(3) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as rural health center services. Rural health clinics ~~which that~~ wish to administer ~~those vaccines which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ However, the administration of vaccines is a covered service.

ITEM 11. Amend rules 441—78.22(249A) and 441—78.23(249A) as follows:

441—78.22(249A) Family planning clinics. Payments will be made on a fee schedule basis for services provided by family planning clinics.

78.22(1) Payment will be made for sterilization in accordance with 78.1(16).

78.22(2) Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as family planning clinic services. Family planning clinics ~~which that~~ wish to administer ~~those vaccines for Medicaid recipients members who receive family planning services at the family planning clinic~~ shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Family planning clinics shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

This rule is intended to implement Iowa Code section 249A.4.

441—78.23(249A) Other clinic services. Payment will be made on a fee schedule basis to facilities not part of a hospital, funded publicly or by private contributions, which provide medically necessary treatment by or under the direct supervision of a physician or dentist to outpatients.

78.23(1) Sterilization. Payment will be made for sterilization in accordance with 78.1(16).

78.23(2) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient member~~ lock-in program.

78.23(3) Risk assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.23(4) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as clinic services. Clinics that wish to administer those vaccines which are available through the vaccines for children program to Medicaid recipients members shall enroll in the vaccines for children Vaccines for Children program. In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. Clinics shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 12. Amend subparagraph **78.24(2)“e”(3)** as follows:

(3) The ~~recipient member~~ has a medical condition which prohibits travel.

ITEM 13. Amend rule 441—78.25(249A), as follows:

441—78.25(249A) Maternal health centers. Payment will be made for prenatal and postpartum medical care, ~~care coordination~~, health education, and transportation to receive prenatal and postpartum services. Payment will be made for enhanced perinatal services for persons determined high risk. These services include additional health education services, nutrition counseling, social services, ~~additional care coordination services~~, and one postpartum home visit. Maternal health centers shall provide trimester and postpartum reports to the referring physician. Risk ~~assessments~~ assessment using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

ITEM 14. Amend rule **441—78.25(249A)**, first unnumbered paragraph, as follows:

Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as maternal health center services. Maternal health centers ~~which that~~ wish to administer those vaccines ~~which are available through the vaccines for children program~~ to Medicaid ~~recipients members~~ shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Maternal health centers shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

ITEM 15. Rescind and reserve paragraph **78.25(1)“b.”**

ITEM 16. Rescind paragraph **78.25(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Home visit.

ITEM 17. Amend paragraph **78.25(2)“e”** as follows:

e. Dental hygiene services within the scope of practice as defined by the dental board ~~of dental examiners~~ at 650—paragraph 10.5(3) “b.”

ITEM 18. Rescind and reserve paragraph **78.25(3)“a.”**

ITEM 19. Amend rule 441—78.30(249A) as follows:

441—78.30(249A) Birth centers. Payment will be made for prenatal, delivery, and postnatal services. ~~Risk assessments, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed twice during a Medicaid recipient’s pregnancy.~~

78.30(1) Risk assessment. Risk assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed at the initial visit during a Medicaid member’s pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.30(2) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as birth center services. Birth centers ~~which that~~ wish to administer those vaccines ~~which are available through the vaccines for children program~~ to Medicaid ~~eligibles~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid eligibles.~~ Birth centers shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 20. Rescind subrule **78.39(3).**

ITEM 21. Amend subrules 78.39(1) and 78.39(2) as follows:

78.39(1) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient~~ member lock-in program.

78.39(2) Risk ~~assessments~~ assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient’s~~ member’s pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.39(3) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered services. Federally qualified health centers ~~which that~~ wish to administer those vaccines ~~which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ However, vaccine administration is a covered service.

ITEM 22. Amend subrules 78.40(3), 78.40(4) and 78.40(5) as follows:

78.40(3) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient~~ member lock-in program.

78.40(4) Vaccine administration. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered services. Advanced registered nurse practitioners who wish to administer those vaccines ~~which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~

Advanced registered nurse practitioners shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

78.40(5) Prenatal risk assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

ITEM 23. Amend subrule 78.49(1) as follows:

78.49(1) Covered services. Covered services include, but are not limited to, audiology, psychological evaluation and counseling, health and nursing services, nutrition services, occupational therapy services, physical therapy services, developmental services, speech-language services, vision services, case management, and medical transportation.

ITEM 24. Rescind subrule 78.49(2) and adopt the following new subrule in lieu thereof:

78.49(2) Case management services. Payment shall also be approved for infant and toddler case management services subject to the following requirements:

a. Definition. "Case management" means services that will assist eligible children in gaining access to needed medical, social, educational, and other services. Case management is intended to address the complexities of coordinated service delivery for children with medical needs. The case manager should be the focus for coordinating and overseeing the effectiveness of all providers and programs in responding to the assessed need. Case management does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible child has been referred or any activities that are an integral part or an extension of the direct services.

b. Choice of provider. Children who also are eligible to receive targeted case management services under 441—Chapter 90 must choose whether to receive case management through the infant and toddler program or through 441—Chapter 90. The chosen provider must meet the requirements of this subrule.

(1) When a child resides in a medical institution, the institution is responsible for case management. The child is not eligible for any other case management services.

(2) If the case management agency also provides direct services, the case management unit must be designed so that conflict of interest is addressed and does not result in self-referrals.

(3) If the costs of any part of case management services are reimbursable under another program, the costs must be allocated between those programs and Medicaid in accordance with OMB Circular No. A-87 or any related or successor guidance or regulations regarding allocation of costs.

(4) The case manager must complete a competency-based training program with content related to knowledge and understanding of eligible children, Early ACCESS rules, the nature and scope of services in Early ACCESS, and the system of payments for services, as well as case management responsibilities and strategies. The department of education or its designee shall determine whether a person has successfully completed the training.

c. Assessment. The case manager shall conduct a comprehensive assessment and periodic reassessment of an eligible child to identify all of the child's service needs, including the need for any medical, educational, social, or other services. Assessment activities are defined to include the following:

- (1) Taking the child's history;
- (2) Identifying the needs of the child;
- (3) Gathering information from other sources, such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the child;
- (4) Completing documentation of the information gathered and the assessment results; and
- (5) Repeating the assessment every six months to determine whether the child's needs or preferences have changed.

d. Plan of care. The case manager shall develop a plan of care based on the information collected through the assessment or reassessment. The plan of care shall:

- (1) Include the child's strengths and preferences;
- (2) Consider the child's physical and social environment;
- (3) Specify goals of providing services to the child; and
- (4) Specify actions to address the child's medical, social, educational, and other service needs.

These actions may include activities such as ensuring the active participation of the child and working with the child or the child's authorized health care decision maker and others to develop goals and identify a course of action to respond to the assessed needs of the child.

e. Other service components. Case management must include the following components:

(1) Contacts with the child and family. The case manager shall have face-to-face contact with the child and family within the first 30 days of service and every three months thereafter. In months in which there is no face-to-face contact, a telephone contact between the service coordinator and the family is required.

(2) Referral and related activities to help a child obtain needed services. The case manager shall help to link the child with medical, social, or educational providers or other programs and services that are capable of providing needed services. Referral activities do not include provision of the direct services, program, or activity to which the child has been linked. Referral activities include:

1. Assisting the family in gaining access to the infant and toddler program services and other services identified in the child's plan of care.

2. Assisting the family in identifying available service providers and funding resources and documenting unmet needs and gaps in services.

3. Making referrals to providers for needed services.

4. Scheduling appointments for the child.

5. Facilitating the timely delivery of services.

6. Arranging payment for medical transportation.

(3) Monitoring and follow-up activities. Monitoring activities shall take place at least once annually for the duration of the child's eligibility, but may be conducted as frequently as necessary to ensure that the plan of care is effectively implemented and adequately addresses the needs of the child. Monitoring and follow-up activities may be with the child, family members, providers, or other entities. The purpose of these activities is to help determine:

1. Whether services are being furnished in accordance with the child's plan of care.

2. Whether the services in the plan of care are adequate to meet the needs of the child.

3. Whether there are changes in the needs or status of the child. If there are changes in the child's needs or status, follow-up activities shall include making necessary adjustments to the plan of care and to service arrangements with providers.

(4) Keeping records, including preparing reports, updating the plan of care, making notes about plan activities in the child's record, and preparing and responding to correspondence with the family and others.

f. Documentation of case management. For each child receiving case management, case records must document:

(1) The name of the child;

(2) The dates of case management services;

(3) The agency chosen by the family to provide the case management services;

(4) The nature, content, and units of case management services received;

(5) Whether the goals specified in the care plan have been achieved;

(6) Whether the family has declined services in the care plan;

(7) Time lines for providing services and reassessment; and

(8) The need for and occurrences of coordination with case managers of other programs.

ITEM 25. Amend rule 441—78.50(249A), as follows:

441—78.50(249A) Local education agency services. Subject to the following subrules, payment shall be made for medical services provided by local education agency services providers to ~~Medicaid-eligible individuals~~ Medicaid members under the age of 21.

ITEM 26. Amend subrule 78.50(1) as follows:

78.50(1) Covered services. Covered services include, but are not limited to, audiology services, behavior services, consultation services, medical transportation, nursing services, nutrition services, occupational therapy services, personal assistance, physical therapy services, psychologist services, speech-language services, social work services, vision services, and school-based clinic visit services.

a. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as local education agency services. Agencies that wish to administer those vaccines to Medicaid members shall enroll in the Vaccines for Children program and obtain the vaccines from the department of public health. However, the administration of vaccines is a covered service.

b. Payment for supplies shall be approved when the supplies are incidental to the patient's care, e.g., syringes for injections, and do not exceed \$25 per month. Durable medical equipment and other supplies are not covered as local education agency services.

ITEM 27. Rescind and reserve subrule **78.50(2)**.